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13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

16 JENNIFER PURCELL, individually and on
17 behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 SPOKEO, INC.,

21 Defendant.
22

Case No.: 2:11-cv-06003-ODW-AGR

CLASS ACTION

JOINT STATUS REPORT

Judge: Hon. Otis D. Wright II

23
24 NOW COME Plaintiff Jennifer Purcell ("Plaintiff") and Defendant Spokeo, Inc.
25 ("Defendant" or "Spokeo") (collectively herein, the "Parties"), by and through their
26 undersigned counsel, and as for their Joint Status Report pursuant to this Court's Order of May
27 7, 2014, the Parties state as follows:
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1 purchase, a copy of their report to review it for inaccuracies. Therefore, the present matter has
2 standing to proceed regardless of the outcome in the *Robins* proceeding and as such should not
3 continue to be stayed.

4 II. THE MOTION TO DISMISS.

5 On October 7, 2011, Defendant filed a Motion to Dismiss (Dkt. #66). Prior to briefing
6 on the aforementioned Motion to Dismiss taking place, this proceeding was stayed pending the
7 Ninth Circuit's decision in *Robins v. Spokeo, Inc.*, Case No. 11-56843, *see* (Dkt. #77), which
8 would have a significant impact on the instant case. The Ninth Circuit has subsequently issued
9 a decision in the *Robins* case. The Parties agree that, given the amount of time that has passed
10 since the Motion to Dismiss was filed and the Ninth Circuit's decision in *Robins*, to proceed
11 with the currently filed Motion to Dismiss would be unproductive and waste this Court's and
12 the Parties' resources. Therefore, the Parties agree that the current incarnation of the Motion to
13 Dismiss should be withdrawn.

14 Defendant's Position:

15 If the stay in this case is lifted, Spokeo requests 30 days from the date the stay is lifted
16 to withdraw its currently pending motion to dismiss (Dkt. 66), and to file a new motion to
17 dismiss.

18 Plaintiff's Position:

19 Plaintiff concurs that the current motion to dismiss should be withdrawn as arguments
20 presented in the current motion to dismiss are no longer valid. However, Plaintiff believes that
21 Defendant should not be allowed to use the situation to present brand new arguments not
22 present in the current motion, and any new motion to dismiss should be only for the elimination
23 of issues which are no longer valid.

24 III. ADDITIONAL ISSUES REGARDING HOW THE MATTER SHOULD 25 PROCEED.

26 Procedurally, the instant matter is still in its infancy. Prior to being stayed for over two
27 years, the case was transferred to this Court from the United States District Court for the
28 Northern District of California, where the Parties had contested the appropriate venue for this

1 proceeding. At this time, the Parties are uncertain whether there will be amended pleadings
2 after a motion to dismiss. Additionally, no substantive discovery has taken place yet. While
3 ultimately Plaintiff anticipates the filing of a Motion for Class Certification, until there is a
4 ruling on a motion to dismiss and determination on other issues raised herein, the Parties are
5 unable to speculate on how this proceeding will move forward beyond the filing of a new
6 motion to dismiss discussed above.

7 **IV. EFFECT OF *ROBINS* ON CURRENT PROCEEDING.**

8 **Defendant's Position:**

9 Spokeo's position is that the related *Robins* case, which is also before this Court, is
10 nearly factually and legally identical to this case and that the cases should be consolidated to
11 prevent Spokeo from suffering the burden of defending the same case twice. Spokeo has
12 requested Plaintiff's counsel in both this case and the *Robins* case to agree to consolidation of
13 the matters, but neither Plaintiff has agreed. If Plaintiffs do not agree to consolidation, Spokeo
14 intends to file a motion to consolidate the matters soon.

15 **Plaintiff's Position:**

16 While Plaintiff acknowledges that there is factual and legal overlap between the current
17 matter and *Robins*, Plaintiff does not believe that consolidation of the two matters is appropriate
18 at this time. As discussed above, Plaintiff pleads additional facts which make her case
19 distinguishable from *Robins*, and which make the outcome of the instant matter not directly tied
20 to the outcome in *Robins*. Therefore consolidation at this point would only serve to allow the
21 Defendant to unnecessarily stall this proceeding while waiting for the outcome of *Robins*.
22 While consolidation could eventually be appropriate, to do so at this point would only serve to
23 further deny Plaintiff the ability to proceed with this litigation.

24 (See Next Page)

1 DATE: June 2, 2014

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above referenced JOINT STATUS REPORT was filed electronically on June 2, 2014. Notice of this filing will be served upon all counsel for parties of record by operation of the Court's electronic filing system.

/s/ Barrett L. Schreiner
Barrett L. Schreiner